

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

JACQUARD MERRITT,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:06-cv-1105
)	
)	
CITY OF MONTGOMERY, et al.,)	
)	
Defendants.)	

ANSWER OF DEFENDANTS TO PLAINTIFF'S AMENDED COMPLAINT

COME NOW Defendants, City of Montgomery, Arthur Baylor, T.D. James, Henry Davis and as answer to Plaintiff's Amended Complaint state unto the Court the following:

Parties

Defendants admit that the City of Montgomery is a municipal corporation organized under the laws of the state of Alabama. Defendants deny all other allegations in Plaintiff's statement of the parties and demand strict proof thereof.

Facts

1. Defendants deny the allegations in paragraph 1 and demand strict proof thereof.
2. Defendants deny the allegations in paragraph 2 and demand strict proof thereof.
3. Defendants deny the allegations in paragraph 3 and demand strict proof thereof.
4. Defendants deny the allegations in paragraph 4 and demand strict proof thereof.
5. Defendants deny the allegations in paragraph 5 and demand strict proof thereof.
6. Defendants deny the allegations in paragraph 6 and demand strict proof thereof.

7. Defendants deny the allegations in paragraph 7 and demand strict proof thereof.
8. Defendants deny the allegations in paragraph 8 and demand strict proof thereof.
9. Defendants deny the allegations in paragraph 9 and demand strict proof thereof.
10. Defendants deny the allegations in paragraph 10 and demand strict proof thereof.
11. Defendants deny the allegations in paragraph 11 and demand strict proof thereof.
12. Defendants deny the allegations in paragraph 12 and demand strict proof thereof.
13. Defendants deny the allegations in paragraph 13 and demand strict proof thereof.
14. Defendants deny the allegations in paragraph 14 and demand strict proof thereof.
15. Defendants deny the allegations in paragraph 15 and demand strict proof thereof.
16. Defendants deny the allegations in paragraph 16 and demand strict proof thereof.
17. Defendants deny the allegations in paragraph 17 and demand strict proof thereof.
18. Defendants deny the allegations in paragraph 18 and demand strict proof thereof.
19. Defendants deny the allegations in paragraph 19 and demand strict proof thereof.

Demand for Judgment

Defendants deny that Plaintiff is entitled to any relief requested in paragraphs 1 – 5 of the Demand for Judgment and demand strict proof thereof.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Defendants assert that the Complaint fails to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendants deny that Plaintiff is entitled to any relief.

THIRD AFFIRMATIVE DEFENSE

Defendants plead the general issue.

FOURTH AFFIRMATIVE DEFENSE

Defendants deny all material allegations not specifically admitted and demands strict proof thereof.

FIFTH AFFIRMATIVE DEFENSE

Defendants assert that Plaintiff has failed to state injuries or damages caused by Defendants which violated Plaintiff's constitutional rights or for which any relief can be granted.

SIXTH AFFIRMATIVE DEFENSE

Defendants plead qualified and/or discretionary function immunity. Defendants assert tort immunity pursuant to *ALA. Code* § 6-5-338 (1975).

SEVENTH AFFIRMATIVE DEFENSE

Defendants assert that Plaintiff was guilty of negligence, wantonness, recklessness and intentional acts or criminal acts which proximately caused or contributed to the injuries or damages he claims.

EIGHTH AFFIRMATIVE DEFENSE

Defendants assert state actor immunity pursuant to Article 1 § 14, Constitution of Alabama (1901).

RESERVATION OF DEFENSES

Defendants reserve the right to plead additional defenses as they become known in the course of discovery.

Done this the 2nd day of January, 2007.

/s/Kimberly O. Fehl
Kimberly O. Fehl (FEH001)

Legal Division

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon the following by electronic mail/filing or by United States Mail, postage prepaid, this the 2nd day of January, 2007.

Joe M. Reed, Esq.
524 South Union Street
Montgomery, AL 36104

/s/ Kimberly O. Fehl
OF COUNSEL